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United States Department of Agriculture,

BUREAU OF BIOLOGICAL SURVEY—Circular No. 93.

HENRY W. HENSHAW, Chief of Bureau.

EXPLANATION OF THE PROPOSED REGULATIONS FOR THE PROTECTION OF MIGRATORY BIRDS.

Laws for the protection of migratory birds hitherto enacted have usually provided long open seasons and have been framed mainly in the interests of the hunter rather than of the game. In preparing the regulations under the Federal law for the protection of migratory birds (37 Stat. 847), an effort has been made to reduce the open seasons to reasonable limits, to provide hunting at the time of the year when game birds are most abundant and in the best condition, and in all cases to give the benefit of the doubt to the bird. Recognizing the fact that many species of shore birds and some of the waterfowl have diminished to a point where they are approaching extinction, protection has been extended to several species throughout the year and to others at least three-fourths of the year. The preparation of the regulations was intrusted to a committee of members of the Biological Survey appointed by the Acting Secretary of Agriculture on March 21, 1913. The members of this committee were: T. S. Palmer, Assistant Chief, chairman; A. K. Fisher, In Charge of Economic Investigations; and W. W. Cooke, Migration Expert. The committee at once took up the work of examining the data on file in the Biological Survey relating to the distribution, migration, and protection of migratory birds, had a series of maps prepared, collected much special information, and after numerous conferences recommended the regulations contained in Circular No. 92. These regulations differ from the ordinary restrictions under State laws, since they take into consideration the entire range of the species and the condition of the birds at all times of the year and not merely the local conditions when a certain species is most abundant in some particular State or region.

BASIS OF THE REGULATIONS.

In carrying out the statutory requirement of "due regard to the zones of temperature, breeding habits, times and line of migratory

flight," the following are some of the more important principles on which the regulations have been based:

To limit the list of migratory game birds to species properly so called and to eliminate species too small to be considered legitimate game or too rare to be longer hunted for sport or profit. This list has been made to conform as closely as possible with the statutory definitions of game.

To prevent spring shooting.

To protect migratory birds between sunset and sunrise.

To provide protected flight lines along at least three of the great navigable rivers.

To make the seasons approximately equal in length in different parts of the country.

To limit the hunting seasons to a maximum of three or three and one-half months.

To regulate these seasons according to latitude and times of migration and to adjust them so that there may be reasonable opportunity of securing 30 days' shooting of any species at a given place.

To provide separate seasons for waterfowl, rail, shore birds, and woodcock. The woodcock seasons are made to conform as nearly as possible with the seasons for upland game under State laws, so that there may be no opportunity in close seasons to hunt quail or grouse under the guise of shooting woodcock.

To curtail hunting at the end instead of the beginning of the open season, in the interest of both the birds and the sportsmen.

To utilize all the protection now accorded by the close seasons under State laws and extend these seasons where necessary.

EFFECT OF THE REGULATIONS.

The probable effect of these regulations may be briefly stated as follows:

(1) Uniformity in protection of migratory game and insectivorous birds in the several States.

(2) Protection of birds in spring while en route to their nesting grounds and while mating.

(3) Uniformity in protection of migratory birds at night.

(4) Establishment of protected migration routes along three great rivers in the central United States.

(5) Complete protection for five years for the smaller shore birds and other species which have become greatly reduced in numbers.

(6) Reduction of the open season on migratory game birds, but in most cases not more than 25 to 50 per cent.

(7) No change in existing conditions before October 1, 1913.

DEFINITIONS.

Although the law names the more important game birds, a regulation defining the groups is necessary to show definitely the kinds of birds included under the term "all other migratory game and insectivorous birds." In framing these definitions the statutory definitions of the various State laws have been followed as closely as possible in so far as they relate to migratory species; the birds have been arranged in natural groups, and the common names adopted by the American Ornithologists' Union have been followed when the birds have more than one common name since it is obviously impracticable to include all the local names.

NIGHT SHOOTING.

The regulation prohibiting night shooting is intended to bring about uniformity in provisions now in force in most States protecting waterfowl or other birds at night or within certain hours between sunset and sunrise so that the birds may be unmolested on their roosting grounds and may have time to feed after sunset or before sunrise. It will make no change in existing law in about one-fourth of the States; it will make existing regulations clearer in 9 States; it will add an hour's protection, more or less, in the morning and evening in about one-fourth of the States; and it will regulate night shooting in 14 States which now have no restriction of this kind.

INSECTIVOROUS BIRDS.

This regulation simply makes uniform the protection now accorded these birds in more than 40 States. It protects the robin, the lark, and other birds in the few States in which they suffer from an open season. It attempts no change in existing regulations regarding the issue of permits for collecting birds for scientific purposes.

FIVE-YEAR CLOSE SEASONS.

A close season for several years is provided in an effort to harmonize the absolute protection already given some birds in certain States, the demand for five-year close seasons on shore birds; and the necessity for greater protection on other birds which have been hunted beyond the margin of safety. The protection accorded woodcock and rail is already existing law; that on swans has been made uniform throughout all the States, and that on wood ducks extended from a few States in the Northeast to most of the States in Zone No. 1 east of the Mississippi River. The only important additions are the additional protection given band-tailed pigeons in a few States and the close season placed on avocets, cranes, curlew, godwits, killdeer, stilts, upland plover, willet, and the smaller shore birds.

NAVIGABLE RIVERS:

The suspension of hunting on the Ohio, Mississippi, and Missouri Rivers allows waterfowl a safe highway from their winter feeding grounds in the lower Mississippi Valley to their nesting grounds in Minnesota and the Dakotas and forms an extended refuge which is easily defined and can be generally recognized.

ZONES.

More than 50 separate seasons for migratory birds were provided under statutes in force in 1912. This multiplicity of regulations or zones to suit special localities has apparently had anything but a beneficial effect on the abundance of game. The effort to provide special seasons for each kind of game in each locality merely makes a chain of open seasons for migratory birds and allows the continued destruction of such birds from the beginning of the first season to the close of the last. It is believed that better results will follow the adoption of the fewest possible number of zones and so regulating the seasons in each as to include the time when each species is in the best condition or at the maximum of abundance during the autumn. For this reason the country has been divided into two zones, as nearly equal as possible, one to include the States in which migratory game birds breed or would breed if given reasonable protection, the other the States in which comparatively few species breed, but in which many winter. Within these zones the seasons are fixed for the principal natural groups—waterfowl, rail, shore birds, and woodcock. In no case does the zone boundary cross a State line, and except in very rare cases the seasons are uniform throughout the States. Deviation from this rule leads ultimately to the recognition of a multiplicity of local seasons, which has done so much to retard game protection.

SEASONS IN ZONE NO. 1.

Apparently few changes have been made in existing hunting seasons in Zone No. 1, except in the elimination of spring shooting, and about half of the States in this zone now close the season on waterfowl by the middle of December or the first of January. In most States in this zone the hunting season begins on some date in September, and these dates have generally been followed in the regulations. In two or three cases in which States have several different seasons for different counties it has been necessary to effect a compromise, either by adopting one season or the dates which most nearly conform with the seasons in adjoining States. A slight change in a few of the State laws would make it possible to eliminate most of the exceptions and apparent inequalities in the seasons.

SEASONS IN ZONE NO. 2.

In most cases the close seasons in Zone No. 2 end on the same dates as the seasons under the State laws, but eliminate spring shooting after January 15. This avoids confusion in the opening of the hunting season and provides shooting in the autumn or early winter, when the birds are in the best condition. In four States—Maryland, Virginia, North Carolina, and South Carolina—the seasons for waterfowl do not open until November 1, and the season is consequently extended to February 1. The difference of 15 days in the length of the season in these States as compared with the seasons elsewhere is more than offset by the fact that the birds are present practically throughout the open season, whereas in the northern zone and in some States in the southern zone they are present only part of the time.

HEARINGS.

The object of the hearings is to afford persons interested an opportunity to present evidence showing the necessity for readjustment of some of the seasons so as to adapt them better to local conditions and to submit new data regarding local abundance of birds and times of migration. The department already has ample information regarding the seasons provided under existing laws and the changes which have been made from time to time. The desire to have the hunting seasons as long as possible is natural, but as such seasons have heretofore been too long, the question is merely one of adjustment within certain maximum limits. Consequently, if the birds are to be restored, some curtailment of the season in each State is essential. In such an effort general welfare should take precedence over private or local interests. In recommending changes the condition of each species should be considered throughout its range rather than in any one locality, and the effect of proposed changes in extending or shortening the season as a whole in all the States must be given due weight.

T. S. PALMER,

Chairman, Committee on Regulations on Migratory Birds.

Approved.

B. T. GALLOWAY,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *June 17, 1913.*





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